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December 5, 2013

BY ECF

The Honorable William D. Wall
United States District Court
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, New York 11722


Re: *Spector Group II, LLP et al. v. Transportation Insurance Company, et al.*
Civil Case No.: CV 12-3081 (LDW) (WDW) (the "Action")

Dear Judge Wall:

We represent Intervenor Plaintiff SG Design Build LLC ("SG Design") in the above-captioned Action. I write in response to Defendants' counsel's November 27, 2013 letter requesting a pre-motion conference on a planned motion for American Casualty Company of Reading, PA ("ACCO") to intervene in the Action and move for leave to join Dubinsky Consulting Engineers, PLLC ("Dubinsky") as a defendant in the Action, presumably to seek declaratory relief concerning its obligations to defend and indemnify Dubinsky under Dubinsky's insurance policies..

SG Design respectfully opposes the application substantially for the reasons stated in the September 25, 2013 and December 2, 2013 letters that counsel for Plaintiff Spector Group II, LLP has submitted and joins and adopts the arguments made in those letters. We further note that (1) Defendants' counsel gives no indication there is an existing coverage dispute between ACCO and Dubinsky "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment," *see MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007), to meet the Constitutional "actual case or controversy" requirement for declaratory relief, and (2) the amount of time that has passed without either ACCO or Dubinsky having commenced a separate declaratory judgment action suggests that an actual case or controversy is lacking.

Respectfully submitted,



L. Donald Prutzman

cc: All counsel (by ECF)